

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF FLORIDA**

CASE NO. 22-22671-CIV-ALTONAGA/Torres

DELIO BATISTA, *et al.*,

Plaintiffs,

v.

AVANT ASSURANCE INC., *et al.*,

Defendants.

ORDER

THIS CAUSE came before the Court on Plaintiffs’ Motion for Sanctions Against Defendant Avant Assurance Inc. Pursuant to Fed. R. Civ. P. 11 [ECF No. 143], filed on November 28, 2023. Plaintiffs request the Court impose sanctions on Avant Assurance Inc. for raising “meritless arguments for a new trial and remittitur” in a “futile attempt to delay Plaintiffs’ receipt” of their jury award. (Mot. 2).

Following jury trial and entry of Final Judgment [ECF No. 106], Avant filed a Renewed Motion for Remittitur, or Alternatively, New Trial [ECF No. 124], on September 21, 2023. According to Avant, the jury must have “reached [the verdict] through speculation[,]” and “the damages are excessive.” (Renewed Mot. 2, 16 (alterations added)).


In their Motion, Plaintiffs argue Avant should be sanctioned under Rule 11 for continuing to pursue post-judgment relief “in the face of such clear law and facts” in Plaintiffs’ favor. (Mot. 7). Yet, the Court has not entered a final ruling on the Renewed Motion. And in September 2023, Plaintiffs and Avant appealed the Judgment to the Eleventh Circuit. (*See* Avant’s Notice of Appeal [ECF No. 121]; Plaintiffs’ Notice of Appeal [ECF No. 122]). The appeal is pending.

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“The time when sanctions are to be imposed rests in the discretion of the trial judge.”
Chambers v. NASCO, Inc., 501 U.S. 32, 56 n.19 (1991) (citation and quotation marks omitted).
Given Avant’s outstanding post-trial motion and the appeal, the request for sanctions is premature.
Plaintiffs would be well served to await the Court’s decision on Avant’s Renewed Motion for
Remittitur, or Alternatively, New Trial and the Eleventh Circuit’s decision, before re-filing a
motion for sanctions.

Being fully advised, it is **ORDERED AND ADJUDGED** that the Motion [ECF No. 143]
is **DENIED without prejudice**.

DONE AND ORDERED in Miami, Florida, this 29th day of November, 2023.



CECILIA M. ALTONAGA
CHIEF UNITED STATES DISTRICT JUDGE

cc: counsel of record